

**State Board of Education  
Briefing Paper  
Non-Public Agencies (NPAs)**

**Issue/Definition:** Public schools are required to provide a free appropriate public education (FAPE) to eligible special education students, age 3-21. If a student's special education needs cannot be met within a given district, the district may contract with a state approved Non-Public Agency (NPA) for special education and related services as the least restrictive environment (LRE) for that student as established through the Individual Education Program (IEP) process. The district may contract with NPAs located in-state or out-of-state.

**RCW Cite:** **RCW 28A.155.060 District authority to contract with approved agencies — Approval standards.** For the purpose of carrying out the provisions of RCW 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with agencies approved by the state board of education for operating special education programs for students with disabilities. Approval standards for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools.

**Expiration of SBE Authority:** Mid-late June 2006. This authority transfers to OSPI under E2SHB 3098. Actual date of transfer is 90 days after the Governor signs the bill.

**OSPI Role:** OSPI reviews the NPA application and recommendations made by the district for approval. The NPA application process requires an on-site visit by the recommending district in order to ensure the program is appropriate for the student(s) it wishes to place in the private entity. Applications that pass the OSPI review process are forwarded to the SBE with a recommendation for approval. Applications that do not pass the OSPI review process are not forwarded to the State Board.

**State Board Role:** By law the SBE is the designated agency with authority to grant an NPA approval. The NPA is approved prior to the school district initiating a contract with the NPA for special education services. School districts are not permitted to flow IDEA, Part B funds to an NPA for the provision of special education service until the SBE approves the NPA [WAC 392-172-222]. The approval validates that the agency has the ability to provide special education service and provide students with the same rights and protections they would receive in public school. Approval does not guarantee the NPA a contractual arrangement with any district.

**Effect on Districts:** School districts retain responsibility for ensuring the NPA complies with the terms of the contract and for all relevant state and federal laws applicable to school districts.

**Recommendation from SBE Staff:** Until this approval authority transfers to OSPI (see above), NPAs seeking approval prior to that time have honored the requirements in place and been evaluated by OSPI staff. Staff recommendation to the State Board is that it consider and act on any requests for NPA approval received prior to the date of transfer of authority to OSPI.

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